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SMALL ENTITY

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before The Board of Appeals

August 2, 2004

Re: Appeal of Application of Karen Heneghan
Serial No. 10/037,020
Filed 12/21/01
Title: Mini Blind Cleaning Support System

The following papers are enclosed for filing in the above-entitled Appeal

Three copies of an Appeal Brief
Check in the amount of \$165.00

Respectfully submitted

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CERTIFICATE OF MAILING

This certifies that the undersigned has deposited the accompanying correspondence with proper postage in the United States Mail addressed to Mail Stop Appeal Brief-Patents, Commissioner for Patents P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Signature

8/2/04
Date



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KH-1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Appeals

Appeal from Final Rejection dated 04/21/04

Ex parte Karen Heneghan

Application No. 10/037,020

Filing Date 12/21/2001

For: Mini Blind Cleaning Support System

Attorney Docket No. KH-1

Art Unit 1744

Examiner Laura C. Cole

BRIEF ON BEHALF OF APPELLANT

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I

REAL PARTY IN INTEREST

Appellant is the real party in interest.

II

RELATED APPEALS OR INTERFERENCES

There are no related Appeals or Interferences in connection with this Application.

III

STATUS OF ALL CLAIMS

Claims 1-9, the only claims in the application, stand rejected as unpatentable under 35 USC 103.

IV

STATUS OF AMENDMENTS FILED SUBSEQUENT TO FINAL REJECTION

There are no amendments filed subsequent to the Final Rejection.

V

CONCISE SUMMARY OF THE INVENTION

The invention is a system for cleaning mini blinds that includes supporting the spine of a mini blind from a smooth surface in an environment suitable for wet cleaning, i.e., over a bathtub, in a shower enclosure, or the like. Right and left end pieces, each including a bottom, a side, and an end portion are affixed via suction cups to the smooth surface and restrict movement of the spine during cleaning.

Representative claim 1, with references added follows:

A mini blind cleaning system comprising:

a mini blind (10) having a rigid spine (12);

a first and a second end support (20,30);

said first and said second end support (20,30) each including a back portion (22,32) and a lower portion (24,34) extending at substantially right angles thereto (FIGs 2-7 and Page 3, line 9 through Page 4, line 11); and

suction cup means (50) affixed to said back portions (22,32) for securing said first and said second end support (20,30) to a smooth, flat surface (60 FIG 10) with said lower portions (24,34) in a horizontal attitude for supporting opposite ends of said spine (12).

VI

ISSUES PRESENTED FOR REVIEW

Issue 1. Whether claims 1-4 and 7 are unpatentable under 35 USC 103 over Madsen in view of Belokin?

Issue 2. Whether claims 1, 3 and 4 are unpatentable under 35 USC 103 over Madsen in view of Walters?

Issue 3. Whether claims 1, 3 and 4 are unpatentable under 35 USC 103 over Walters in view of Madsen?

Issue 4. Whether claims 1 and 3 are unpatentable under 35 USC 103 over Madsen in view of Russo?

Issue 5. Whether claims 1- 4 and 7 are unpatentable under 35 USC 103 over Madsen in view of Smith?

Issue 6. Whether claims 1, 3 and 5 are unpatentable under 35 USC 103 over Madsen in view of Howard?

Issue 7. Whether claims 1, 3 and 5 are unpatentable under 35 USC 103 over Howard in view of Madsen?

Issue 8. Whether claim 5 is unpatentable under 35 USC 103 over Madsen in view of Belokin, in further view of Howard?

Issue 9. Whether claim 6 is unpatentable under 35 USC 103 over Madsen in view of Belokin, in further view of Howard, in still further view of Anderle?

Issue 10. Whether claim 8 is unpatentable under 35 USC 103 over Madsen in view of Belokin, in further view of Howard, in still further view of Smith?

Issue 11. Whether claim 9 is unpatentable under 35 USC 103 over Madsen in view of Belokin, in further view of Howard, in still further view of Smith, in yet further view of Anderle?

VII

GROUPING OF CLAIMS FOR EACH COUNT OF REJECTION

All claims stand or fall together.

VIII

ARGUMENT - ISSUES 1-11

The present invention is believed to be elegant in its simplicity. Appellant will attempt to limit the size of this Brief, while complying with the requirement that each of the many rejections be responded to.

The main reference, Madsen, discloses a venetian blind cleaning system that, similar to Appellant's, is suitable for use in a wet location; specifically Madsen's system consists of a heavy adjustable frame that is secured to the top edge of a bathtub by suction cups. The frame supports a pair of pulleys to which the venetian blind is attached. With the pulley arrangement, the venetian blind may be lowered for immersion in the bathtub and raised for cleaning, etc. The expensive, complex nature of the apparatus and the patent date of 1958 should be noted. Of especial interest in this early reference on venetian blind cleaning in a wet environment, is the *presence of suction cups* on the apparatus.

The Belokin reference discloses an adjustable width display shelf arrangement for use on the inner surface of a transparent door. The arrangement includes a pair of suction-cup-mounted (right and left end) shelf units 10 and 10A and an interconnecting means 60 that adjustably spans the distance between the shelf units. The shelf units 10 and 10A are similar to Appellant's end supports. The reference patent issued in 1992.

The Howard patent is directed to an improved suction cup hook arrangement that, through a combination of suction cup cover and cam-lever, enhances the holding ability of the

suction cup, minimizes marring of the supporting wall and provides a variety of configurations for supporting different shaped loads. In Fig. 6, Howard shows a triangular shaped structure supported by three hooks, one of which the Examiner characterizes as an intermediate support.

The Smith patent discloses a toy mounting device that is securable, by suction cup mounts, to the walls of a bathtub. A curved bar, from which a plurality of toys are suspended, is supported between the suction cup mounts.

The Anderle patent shows L-shaped end brackets for installing a conventional cornice on a window frame for hanging a shade or curtains. The patent is directed to the adjustability aspects of the brackets, which include indicia marks, as the Examiner notes .

The Walters patent discloses a suction cup-mounted arrangement for supporting a glass shelf. Specially configured end supports are conventionally attached to a wall by the suction cups.

The Russo patent discloses hooks that are secured to suction cup mounts for supporting roll-up advertising displays, and the like.

Appellant brought to the Examiner's attention the cited Russo patent and a Thomas patent, as representative of suction-cup mounted hooks and the like, and a Mink and a Malcolm patent which were directed to support racks for holding a mini-blind for wet cleaning. The Mink and Malcolm patents, along with the cited Madsen patent, are believed to be representative of the state of the art relative to supporting blinds for cleaning at the time of the invention. Madsen issued in 1958, Mink issued in 1990 and Malcolm issued in 1998; a time span certainly believed sufficient to derive some conclusions about the level of skill in the art. If

one looks at the cost and complexity of the structures in these patents, one can appreciate the elegance of Appellant's invention. Without doubt, there are a myriad of suction cup-mounted apparatuses for supporting an even larger number of devices in many different ways. It may certainly be argued that any of these devices *could have been* used to support a mini-blind for cleaning. While the specific Belokin device was not known to Appellant prior to its citation, it is also believed to be representative of many such suction cup support structures in the art. The other examples cited by the Examiner and those found by Appellant, amply demonstrate this. *However, lacking Appellant's inventive concept, no one in the art, to her knowledge, achieved her invention that solves, in a simple, low cost structure, this long-standing problem.* The best evidence of the unobviousness of the present invention, is believed to be the Madsen, Mink and Malcolm patents, which clearly illustrate the level of ordinary skill in the art of cleaning blinds at the time of Appellant's invention.

While not in itself persuasive of patentability, the success of an invention in the marketplace is very often a hallmark of an answer being found to a long-felt-need. Certainly it is a strong factor in determining the unobviousness of an invention under Section 103. With Amendment A, Appellant submitted evidence of the commercialization of the invention, specifically she included a Declaration that included, among other things, itemization of the costs incurred in bringing the invention to market, and the resulting sales. It is important to note that commercialization has been impeded since Appellant has individually supplied the bulk of the sales effort and all of the costs. Yet, despite the limited expenditures of money and manpower, sales of Product Units (each of which consists of a set of supports 20, 30 and 40 as described and

claimed in the present application) have been quite remarkable. The Declaration showed that: 2,324 Product Units were sold in 2002; 6,184 Product Units were sold in 2003; and through February 13th of 2004, 1,966 Product Units were sold. These sales were primarily through five mail order catalogs and Appellant is aggressively pursuing agreements to have the Product Units carried by a number of large retailers. (As of the date of this Brief, there were 6,054 Product Units sold in 2004.) The sales of Product Units--and especially the upward trend of these sales--is strong evidence of the invention satisfying a need in the marketplace. Indeed this evidence is believed to be dispositive of the question of unobviousness under Section 103 and the Board is respectfully urged to so hold.

Issue 1. Claim 1 (and independent claim 7) essentially recites a mini blind cleaning system comprising a mini blind with a rigid spine, first and second end supports, each including a back portion and a lower portion at right angles and suction cup means on the back portions for securing the end supports to a smooth, flat surface with the lower portions in a horizontal attitude for supporting opposite ends of the spine.

Madsen specifically shows a venetian blind cleaning system that comprises a large frame for holding an extended blind; the frame being secured to the top edge of a bathtub by suction cups. The Madsen system enables the blind to be lowered into the bathtub as desired during the cleaning process. Belokin shows an adjustable width display shelf arrangement with suction cup end supports for holding the shelf. The Examiner argues that it would have been obvious for one of ordinary skill in the art to substitute Madsen's structure for Belokin's to achieve a less complex system requiring less time to assemble. On its face, the argument appears

to be reasonable since Belokin's adjustable shelf *could* be used to support a mini-blind for cleaning, *if* the idea occurred to the man of ordinary skill in the art. Here, there can only be speculation. *However, the presence of suction cup supports in the Madsen reference, coupled with the fact that no art, to Appellant's knowledge, did combine the references would appear to argue against obviousness.* When one also considers the evidence of commercial success of Appellant's invention, it is believed that the issue of patentability of these claims under Section 103 should be decided in Appellant's favor.

Since all of the Issues involve these same points, the arguments with respect to Issues 2-11 will be abbreviated.

Issue 2. The rejection is of claim 1 on Madsen in view of Walters which shows suction cup attached supports for a glass shelf. Walters' supports are quite different from Appellant's and the arguments pertaining to Issue 1 are incorporated herein.

Issue 3. The rejection of claim 1 is on Walters in view of Madsen and the previous arguments apply even more strongly due to the difference in Walter's end supports.

Issue 4. The rejection of claim 1 is on Madsen in view of Russo which discloses a window shade type of advertising display, with the end hooks being secured by suction cups. The previous arguments apply with even more force to counter this rejection, because Russo's supports are very unlike Appellant's.

Issue 5. The rejection of independent claims 1 and 7 is over Madsen in view of Smith who discloses a child's toy suspension bar that is secured to the sides of a bathtub by

suction cups. The supports differ quite markedly from those of Appellant and the prior arguments are even stronger with respect to this rejection.

Issue 6. The rejection of independent claim 1 is over Madsen in view of Howard. Howard discloses a particular type of suction cup hook that bears no resemblance to Appellant's end supports and the previous arguments are applicable with even greater force.

Issue 7. The rejection of independent claim 1 is over Howard in view of Madsen and the same arguments apply as used for Issue 6.

Issue 8. The rejection is of dependent claim 5 over Madsen, Belokin and Howard. Claim 5 adds the intermediate support to claim 1. The Examiner liberally reads Howard to find Appellant's intermediate support; the only showing in Howard being a triangular arrangement in FIG 6 that includes a suction cup support near each apex. However, lacking Appellant's inventive concept, it is believed that the claim with the intermediate support element would not have been obvious at the time of the invention.

Issue 9. The rejection of dependent claim 6, which adds the horizontal alignment indicia to each of the end supports in claim 5, is on Madsen, Belokin, Howard and Anderle. Here again, without Appellant's inventive concept, it is believed that the claim with the alignment indicia on the supports would not have been obvious at the time of the invention.

Issue 10. The rejection of dependent claim 8 is on Madsen, Belokin, Howard and Smith. Claim 8 adds the intermediate support to independent claim 7 and is considered patentable for the reasons advanced in connection with Issue 8.

Issue 11. The rejection of dependent claim 9 is on Madsen, Belokin, Howard, Smith and Anderle. This claim adds horizontal alignment indicia to the supports of claim 8 and the argument with respect to Issue 9 apply.

To summarize, Appellant's invention, while simple, is believed to have been unobvious to one of ordinary skill in the art at the time because of the existence of the existence of Madsen issued in 1958, Mink issued in 1990 and Malcolm issued in 1998, which were all specifically directed to cleaning of blinds. While many of the suction cup supports in the prior art, including Belokin's, could have been employed to achieve Appellant's invention, it does not appear that any were. Indeed, the evidence of the commercial acceptance of Appellant's invention, despite limited means and effort, speaks eloquently to its unobviousness to those of ordinary skill in the art.

It is respectfully requested that the Board overrule the Examiner on all of the Issues.

Respectfully submitted

A handwritten signature in black ink, appearing to read 'N. Camasto', with a stylized, flowing script.

Nicholas A. Camasto

August 2, 2004

IX

APPENDIX

1. A mini blind cleaning system comprising:
a mini blind having a rigid spine;
a first and a second end support;
said first and said second end support each including a back portion and a lower portion extending at substantially right angles thereto; and
suction cup means affixed to said back portions for securing said first and said second end support to a smooth, flat surface with said lower portions in a horizontal attitude for supporting opposite ends of said spine.
2. The system of claim 1, wherein said end supports include side portions for restricting longitudinal horizontal movement of said spine.
3. The system of claim 1, wherein said end supports include front portions for restricting transverse horizontal movement of said spine.
4. The system of claim 1, wherein said suction cup means comprises a pair of suction cups.
5. The system of claim 1, further including:
an intermediate support for said spine, said intermediate support including a back portion and a lower portion extending at substantially right angles thereto; and
suction cup means affixed to said back portion of said intermediate portion.

6. The system of claim 5, further including horizontal alignment indicia in each of said end portions and said intermediate portion.

7. A mini blind cleaning system comprising:

a mini blind having a rigid spine;

a first and a second end support;

said first and said second end support each including a back portion, a lower portion extending at substantially right angles thereto and a side portion for restricting longitudinal horizontal movement of said spine; and

a pair of suction cups affixed to each of said back portions for securing said end supports to a smooth, flat surface with said lower portions in a horizontal attitude for supporting opposite ends of said spine.

8. The system of claim 7, further including:

an intermediate support for said spine, said intermediate support including a back portion and a lower portion extending at substantially right angles thereto; and

a pair of suction cups affixed to said back portion of said intermediate portion.

9. The system of claim 8, further including horizontal alignment indicia in each of said end portions and said intermediate portion.